

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO :4216 of 1999

Dated: 10.04.2007

T.V.Subba Rao, S/o T.C.Subbaiah, 30 years,
Residing at 24/2048, Rajagopalapuram, Darga Mitta,
Nellore and registered owner of lorry A.P.26.T.5927.

..... PETITIONER

AND

- 1.Conservator of Forests, Guntur Cricle, Guntur.
2.Divisional Forest Officer, Nellore.
3.Forest Beat Officer, Gonupalli Beat, Gonupalli Section,
Rapur Range, Nellore District. .. RESPONDENTS

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This writ petition is filed seeking a Writ of Certiorari calling for the records relating to the order passed by the 1st respondent in Rc.No.10598/98/M4 dated 16.02.1999 which reduced the compounding fee to Rs.95,925/- while confirming the order passed by the 2nd respondent in DOR.36/98-99 dated 10.12.1998, as being illegal and void. It also sought for a declaration that Rule 2 (a) relating to definition of

an accused under A.P. Forest Offences Compounding and Prosecution Rules 1969 is bad in law and also forbid the respondents 1 and 2 from proceeding in any manner in pursuance of the order passed by the 1st respondent dated 16.02.1999 in so far as the petitioner's lorry bearing Registration No.A.P.26.T.5927 is concerned.

Brief facts of the case are that the petitioner is the owner of the lorry bearing No. A.P.26.T.5927 and one G.Vishnu was the driver of the said lorry. The said lorry along with Marri tree logs was seized by the 3rd respondent-Forest Beat Officer in a forest offence on 12.11.1998 at about 3 P.M. Since the driver of the lorry and the father of the owner of the lorry agreed for the offence compounded, the 2nd respondent-Divisional Forest Officer passed an order dated 10.12.1998 directing the petitioner to pay a sum of Rs.1,43,680/- towards compounding fee for release of lorry and the forest produce. As against the said order, the petitioner preferred an appeal before the 1st respondent-Conservator of Forests, Guntur stating that he had no nexus with the offence, as he happened to be the owner of the lorry. The 1st respondent on a consideration of the entire material available on record modified the order of the 2nd respondent reducing the compounding fee to Rs.95,925/- and on such payment the seizures involved in the offence shall be released.

A detailed counter-affidavit has been filed on behalf of the respondents stating that the petitioner is responsible for the acts committed by his driver, as he is the agent of the lorry owner. It is further stated that the petitioner having taken a chance by filing an appeal against compounding the offence cannot now turn down and say that the Rule 2 (G) of the Compounding Rules is ultravires and violative of Article 14 of the Constitution of India.

Heard both sides.

The offence was agreed to be compounded, and therefore, the petitioner cannot now turn around and say that he has no nexus with the offence. The petitioner is the owner of the vehicle, and he had not denied that G. Vishnu was not the driver of the lorry. On the other hand, the transport of logs was made at the behest of the petitioner and without his knowledge, the transport could not be undertaken by the driver of the lorry. Therefore, it cannot be said that he has no knowledge about the transport of the forest produce. Hence, this Court is of the view that the contention of the petitioner that he has no knowledge about the forest offence cannot be accepted. I find no merit in the writ petition.

The writ petition is accordingly dismissed. No costs. However, in the interest of justice, and since the offence occurred in 1998 and almost 9 years have passed, the amount of Rs.95,925/- as fixed by the 1st respondent is reduced to Rs.60,000/-.

(GOPALA KRISHNA TAMADA, J)

Gsn.